

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA

Plaintiff,

vs.

SCOTT C. JUDAH,

Defendant.

3:11-po-032-JDR

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ORDER
REGARDING
MOTION TO DISMISS
(Docket No. 3)

Defendant **SCOTT C. JUDAH** request the court to dismiss the violation notice on grounds that he did not violate the state trapping regulations, did not trap a wolverine after the close of season, and did not attempt to trap wolverine during a closed season. In addition, he argues that the traps at issue were legal for coyote, wolf and beaver on March 1, 2011. Docket 3. The motion is opposed by the government. Docket 5. All of the grounds raised by Judah depend upon facts at

issue during the trial. In criminal prosecutions the motion to dismiss may not be used as a means to seek a summary judgment based upon expected evidence at trial. See United States v. Lueros, 243 F. Supp. 160, 165 (D.C.Iowa) cert. denied 382 U.S. 956 (1965). Wherefore, the Motion to Dismiss is denied without prejudice to the defendant to argue for a judgment of acquittal at the end of the government's case-in-chief as may be appropriate.

DATED this 9th day of January, 2012, at Anchorage, Alaska.

/s/ John D. Roberts

JOHN D. ROBERTS

United States Magistrate Judge